

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1344 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SAROJ KAILASHCHANDRA VORA

Versus

M S UNIVERSITY OF BARODA

Appearance:

MR NK MAJMUDAR for Petitioner
MR MITUL K SHELAT for Respondent No. 1

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 21/12/2000

ORAL JUDGEMENT

1. Dr. Saroj Kailashchandra Vora - petitioner has
filed this revision application under Section 115 of the
Civil Procedure Code, 1908 challenging the order dated
2.12.2000 in Civil Misc. Appeal No. 265 of 2000 wherein
the learned Judge was pleased to reject the appeal and

confirm the order passed by the Civil Judge (S.D.), Baroda, below Exh. 5 in Regular Civil Suit No. 1278 of 2000.

2. The petitioner-original plaintiff has filed Regular Civil Suit No. 1278 of 2000 for declaration to the effect that the select list prepared by the Selection Committee is illegal, partial. Further the plaintiff pressed for declaration in the said suit that the Selection Committee as well as Syndicate Committee has no right to take any decision relying upon the select list prepared by the Selection Committee. The petitioner has also sought permanent injunction by which the respondents be restrained from approving the select list prepared by the Selection Committee and from giving an appointment to any other person except the plaintiff who is having the Research qualification. The plaintiff also filed an application below Exh. 5 seeking interim injunction against the respondents which was rejected by the trial court.

3. Being aggrieved and dissatisfied with the aforesaid order, the petitioner filed Civil Miscellaneous Appeal No. 265 of 2000 which was also dismissed by the learned Judge by his order dated 2.12.2000.

4. Being aggrieved and dissatisfied by the aforesaid judgement of the appellate court, the original plaintiff has filed this revision application. Mr. Majmudar, learned counsel for the petitioner has contended that the petitioner has made serious allegations and when it has been alleged by the petitioner that one of the candidates is declared selected, the said select list is subject to further confirmation by the Syndicate Committee and when the husband of one of the selectees is a member of the Syndicate Committee, the entire selection process is vitiated and both the courts below have not taken into consideration this aspect and therefore the orders of the courts below are illegal, bad and liable to be set aside. The learned counsel has relied on the judgement of the Hon'ble Supreme Court in the case of DR (MRS) KIRTI DESHMANKAR VS. UNION OF INDIA AND OTHERS reported in (1991) 1 SCC 104 in which on page 106 at para it is observed thus:-

"The first argument of the learned counsel for the applicant is well founded. Dr. (Mrs) P. Oliyai was, without any doubt, vitally interested in the admission of her daughter-in-law and her presence in the meeting of the Council must be held to have vitiated the selection of respondent

No. 5 for admission. As was observed in A.K. Kraipak Vs. Union of India (1969) 2 SCC 262 there was a conflict between her interest and duty and taking into consideration human probabilities in the ordinary course of human conduct, there was reasonable ground for pleading that she was likely to have been biased. In the Kraipak case (supra) the person concerned was the Acting Chief Conservator of Forests who did not participate in some of the deliberations of the Selection Board, but the fact that he was a member of the Board and that he participated in the deliberations where the claims of his rivals were considered and in the preparation of list were held to have necessarily caused an impact on the selection, as the Board must have given weight to his opinion. In that case the other members of the Board had filed affidavits stating that the Acting Chief Conservator had in no manner influenced their decision, but this was not considered sufficient to save the selection. The principle has been followed in numerous cases including in Ashok Kumar Yadav Vs. State of Haryana (1985) 4 SCC 417 where it was emphasised that it was not necessary to establish bias and that it was sufficient to invalidate the selection process if it could be shown that there was reasonable likelihood of bias. It is regrettable that in spite of repeated reminders by the courts of law, the College and Hospital Council constituted by a number of highly educated persons and headed by the Dean himself did not pay any heed. It was expected of Dr (Mrs) Oliyai to dissociate from the Council instead of espousing the case of her daughter-in-law and in any event it was the bounden duty of the Dean to have seen that Dr Oliyai did so before proceeding with the selection process. We, accordingly hold that the selection of respondent 5 for admission to the Post-graduate Course was vitiated in law."

4.1 Reliance was also placed on the decision in the case of CONSUMER EDUCATION AND RESEARCH CENTRE VS. STATE OF GUJARAT reported in 1984 G.L.H. (NOC) 34 and AIR 1973 H.P. 30

5. On the other hand Mr. S.N. Shelat learned Sr. counsel instructed by Mr. M.K. Shelat, appeared on behalf of respondent No. 1. He has contended that in this case the Selection Committee has selected the

candidate. There is no bias alleged against it. After the selection process is over, the names will go before the Syndicate Committee. It was submitted that it is not correct to say that the Selection Committee has conducted selection with a pre-decision to select Ms. Sanno Pandey. It was submitted that it is not correct to say that the constituted Selection Committee was bias against the petitioner. It was contended that the University is autonomous body which is run and administered according to its own Rules and Regulations and the University is run and regulated by the University Act and Ordinances. It was submitted that the Lecturers are to be appointed in the manner and method provided in the Ordinance of the Handbook. It was submitted that the Selection Committee is constituted according to the provisions of the University Handbook and University Act. According to Sec. 23 of M.S. University of Baroda Act, the Syndicate is the Executive Authority of the University and it consisted of various members. It was submitted that the Selection Committee includes Expert on the subjects in which teachers are to be appointed. It was submitted that the appointment be made to be done by the Syndicate on the recommendation of the Selection Committee and the Selection Committee has taken interview of the candidates and prepared selection list and the Selection Committee had made recommendation to the University and Syndicate meeting. It was submitted that the bias which has been alleged by the plaintiff-petitioner that one of the candidate is declared selected will not come in the way because the Syndicate Committee has not considered the selection and therefore there was no question of bias in this behalf.

5.1 I have considered the orders of the lower courts, memo of revision application and the arguments of the learned counsel for the parties. In my view there is no question of bias committed by the Selection Committee because the name of the petitioner has not been considered by the Syndicate Committee. In view of this there is no merit in the contention raised by the learned counsel for the petitioner in this behalf. The revision application is rejected. No order as to costs.

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